

NOT FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

JOYCE WILLIAMS,)	
)	
Plaintiff,)	
)	CIVIL NO. 1999-0102
v.)	
)	
KMART CORPORATION,)	
)	
Defendant.)	
_____)	

ORDER AMENDING MEMORANDUM OPINION OF MARCH 5, 2001

This matter comes before the Court, *sua sponte*, to correct an error in citation in its Memorandum Opinion, dated March 5, 2001, denying in part and granting in part Defendant's Partial Motion to Dismiss. The Opinion of March 5, 2001 is amended as follows: First, on page 8 of the Opinion, this Court erroneously cites Abramson v. Georgetown Consulting Group, Inc., 765 F. Supp. 255 (3d Cir. 1991) as a Third Circuit case. This case is a Virgin Islands District Court case. Thus, the cite should read: Abramson v. Georgetown Consulting Group, Inc., 765 F. Supp. 255 (**D.V.I.** 1991). Second, paragraph 2 on page 8-9 of the March 5, 2001 Opinion referencing to the Third Circuit should be amended to read "this Court" on lines one and ten. Accordingly, it is hereby

ORDERED that paragraph 2 on page 8-9 of the March 5, 2001 Memorandum Opinion is amended as follows:

This Court has held that "the interpretation of a statutory scheme by the administrative agency charged with its enforcement is entitled to great deference. . . . [C]ourts are obligated to regard as controlling a reasonable, consistently applied administrative

interpretation.” Abramson v. Georgetown Consulting Group, Inc., 765 F. Supp. 255 (D.V.I. 1991) (citations omitted). In regard to the statute in question, the DOL has consistently held that a claim of constructive discharge is not cognizable under the VIWDA. See Cotto, *supra*; Samuel v. Wooley, *supra*; Sheatz, *supra*. Furthermore, DOL’s interpretation of the statute is not unreasonable based on the plain language of the Act. Finally, even if the Court finds that the VIWDA could be interpreted as Plaintiff suggests, **this Court** has stated that where “the language of a statute . . . is susceptible of two constructions, a long continued and unvarying construction applied by administrative officials is a persuasive influence in determining the judicial construction, and should not be disregarded except for the strongest and most urgent reasons.” Abramson, 765 F. Supp. at 259 (quoting Shapiro v. City of Baltimore, 186 A.2d 605, 614 (1962)).

Memorandum Opinion, dated March 5, 2001 at 8-9.

ENTER:

DATED: March ____, 2001

RAYMOND L. FINCH
U.S. DISTRICT JUDGE

A T T E S T:

Wilfredo F. Morales
Clerk of Court

by: _____
Deputy Clerk

cc: Glenda Cameron, Esq.
Bennett Chan, Esq.
The Honorable Jeffrey L. Resnick, U.S. Magistrate Judge